

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5634 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VIJAYBHAI FULABHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR HARIN P RAVAL for Petitioner

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 29/08/97

ORAL JUDGEMENT

Rule. Ms Harsha Devani, learned AGP, waives service of rule.

2. The say of the petitioner is that respondent No.3 in exercise of power under section 76B(1) of the Gujarat Co-operative Societies Act, 1961 issued a show cause notice dated 31st May/2nd June, 1997 calling upon the petitioner to show cause as to why on the allegations

spelt out in the said show cause notice, he should not be removed under section 76B(1)) of the Act. The said notice was sent at Nadiad address and the first hearing was fixed on 10.6.1997. Thereafter with forwarding letter dated 24.6.97, the said notice was sent at Dakor address and hearing was fixed on 5.7.1997. The petitioner received the aforesaid letter on 30th June, 1997 and on that day itself the petitioner addressed an application by registered AD post to the respondent No.3, inter alia, pointing out that in view of the allegations spelt out in the show cause notice, the petitioner would require to examine and inspect the records of Kheda District Branch of the Bank before replying to the allegations in details and as on 5.7.1997 the petitioner was engaged in the election of the Kheda Dist. Co-operative Union, he asked for an adjournment. The petitioner also sent an interim reply on 25.7.1997 since no further communication was received.

3. The grievance of the petitioner is that the respondent No.3 passed ex-parte order vide Annexure S on 22.7.1997 despite the aforesaid reply having been sent and despite an application for adjournment having been made in advance on 30th June, 1997 pointing out the inability on the part of the petitioner to remain present on 5th July, 1997.

4. I have heard the learned counsels for the parties. Without entering into the controversy, the ends of justice would be met if the petitioner is given an opportunity of hearing.

5. In view of the aforesaid, the ex parte order dated 22nd July, 1997 is set aside. Respondent No.3 is directed to proceed in the matter afresh in accordance with law. It is expected that the petitioner will fully co-operative with the proceedings. He shall remain present before the respondent No.3 on 8th September, 1997. Rule is made absolute accordingly.

Direct service.

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(vjn)